

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD A. ADAMS, On behalf of himself and on	:	Case No. 07 CV 6984 (JSR)
behalf of all others similarly situated,	:	
	:	
Plaintiff,	:	
	:	DECLARATION OF
- against -	:	DAVID Z. PINSKY
	:	
IBM PERSONAL PENSION PLAN and	:	
KENNETH J. MORRISSEY, Plan Administrator,	:	ECF CASE
	:	
Defendants.	:	
	:	
	:	
	:	
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David Z. Pinsky declares as follows pursuant to 28 U.S.C. § 1746:

1. I am an associate with the law firm of Covington & Burling LLP, counsel of record in this action for Defendants IBM Personal Pension Plan and Kenneth J. Morrissey, Plan Administrator. I was admitted to practice before the U.S. District Court for the Southern District of New York on October 10, 2006 and remain in good standing therein. I submit this Declaration to place certain documents before the Court in connection with Defendants' Motion to Dismiss the Complaint.

2. Attached as Exhibit A is a true and correct copy of the Order granting IBM summary judgment and denying Richard A. Adams summary judgment in the parties' previous litigation, 2006 WL 2947063 (N.D. Ga. Oct. 13, 2006).

3. Attached as Exhibit B is a true and correct copy of the Order denying Adams' motion for reconsideration, etc. in the parties' previous litigation, 2007 WL 14293 (N.D. Ga. Jan. 2, 2007).

4. Attached as Exhibit C are selected pleadings related to the parties' previous litigation in the United States District Court for the Northern District of Georgia. These pleadings include the documents listed below.

- a) Exhibit C1 is a true and correct copy of the notice, dated December 29, 2005, removing Adams' previous action from state to federal court.
- b) Exhibit C2 is a true and correct copy of Adams' statement of claim in the Magistrate Court of Dekalb County, Georgia, dated December 2, 2005.
- c) Exhibit C3 is a true and correct copy of IBM Corp.'s memorandum in support of IBM Corp.'s summary judgment motion, dated July 17, 2006.
- d) Exhibit C4 is a true and correct copy of Adams' memorandum in support of Adams' summary judgment motion, dated August 2, 2006.
- e) Exhibit C5 is a true and correct copy of IBM Corp.'s opposition to Adams' summary judgment motion, dated August 18, 2006.
- f) Exhibit C6 is a true and correct copy of Adams' motion for reconsideration, etc., dated October 30, 2006.
- g) Exhibit C7 is a true and correct copy of IBM Corp.'s opposition to Adams' motion for reconsideration, etc., dated November 27, 2006.
- h) Exhibit C8 is a true and correct copy of Adams' reply to IBM Corp.'s opposition to Adams' motion for reconsideration, etc., dated December 13, 2006.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of September 2007 in New York, New York.

s/ David Z. Pinsky

David Z. Pinsky

**INDEX OF EXHIBITS
TO DECLARATION OF DAVID Z. PINSKY**

Adams v. IBM Corp., No. 1:05-CV-3308-TWT

- Ex. A: Order granting IBM summary judgment and denying Adams summary judgment, 2006 WL 2947063 (N.D. Ga. Oct. 13, 2006) (Doc. 22)
- Ex. B: Order denying Adams motion for reconsideration, etc., 2007 WL 14293 (N.D. Ga. Jan. 2, 2007) (Doc. 31)
- Ex. C: Selected Pleadings
1. Notice of Removal (Dec. 29, 2005) (Doc. 1)
 2. Adams statement of claim in Magistrate Court of Dekalb County, Georgia (Dec. 2, 2005) (Doc. 1, Attach. 1)
 3. IBM memorandum in support of IBM summary judgment motion (July 17, 2006) (Doc. 13, Attach. 1)
 4. Adams memorandum in support of Adams summary judgment motion (Aug. 2, 2006) (Doc. 16, Attach. 1)
 5. IBM opposition to Adams summary judgment motion (Aug. 18, 2006) (Doc. 18)
 6. Adams motion for reconsideration, etc. (Oct. 30, 2006) (Doc. 26)
 7. IBM opposition to Adams motion for reconsideration, etc. (Nov. 27, 2006) (Doc. 29)
 8. Adams reply to IBM opposition to Adams motion for reconsideration, etc. (Dec. 13, 2006) (Doc. 30)